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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।
Separate paging is given to this Part in order that it may be filed as a separate compilation.

LOK SABHA

The following Bill was introduced in Lok Sabha on the 15th November, 1965:—

BILL No. 70 OF 1965

A Bill further to amend Indian Official Secrets Act, 1923.

BE it enacted by Parliament in the Sixteenth Year of the Republic of India as follows:—

1. (*1*) This Act may be called the Indian Official Secrets (Amendment) Act, 1965. short title and commencement.

(*2*) Clause (*b*) of section 5 shall come into force on such date as the Central Government may, by notification in the Official Gazette, appoint and the remaining provisions of the Act shall come into force at once.

Substitution of new section for section 1.

2. For section 1 of the Indian Official Secrets Act, 1923 (hereinafter referred to as the principal Act), the following section shall be substituted, namely:— 19 of 1923.

Short title, extent and application.

"1. (*1*) This Act may be called the Official Secrets Act, 1923.

(*2*) It extends to the whole of India and applies also to servants of the Government and to citizens of India outside India.".

Amendment of section 2.

3. In section 2 of the principal Act, in clause (*6*), the words "or of the Government of the United Kingdom or of any British possession" shall be omitted.

Amendment of section 3.

4. In section 3 of the principal Act,—

(*a*) in sub-section (*1*), in clause (*c*), after the words "useful to an enemy", the following words shall be inserted, namely:—

"or which relates to a matter the disclosure of which is likely to affect the sovereignty and integrity of India, the security of the State or friendly relations with foreign States";

(*b*) in sub-section (*2*), the words "with imprisonment for a term which may extend to fourteen years", shall be omitted.

Amendment of section 5.

5. In section 5 of the principal Act,—

(*a*) in sub-section (*1*), for the words "or which has been made or obtained in contravention of this Act,", the following shall be substituted, namely:—

"or which is likely to assist, directly or indirectly, an enemy or which relates to a matter the disclosure of which is likely to affect the sovereignty and integrity of India, the security of the State or friendly relations with foreign States or which has been made or obtained in contravention of this Act,";

(*b*) for sub-section (*4*), the following sub-section shall be substituted, namely:—

"(*4*) A person guilty of an offence under this section shall be punishable with imprisonment for a term which may extend to three years, or with fine, or with both.".

Amendment of section 6.

6. In section 6 of the principal Act,—

(*a*) in sub-section (*3*), for the words "two years", the words "three years" shall be substituted;

(*b*) in sub-section (*4*), the words "with imprisonment for a term which may extend to fourteen years" shall be omitted.

Amendment of section 7.

7. In section 7 of the principal Act, in sub-section (*2*), for the words "two years", the words "three years" shall be substituted.

Amendment of section 8.

8. In section 8 of the principal Act, in sub-section (*2*), for the words "two years", the words "three years" shall be substituted.

Amendment of section 10.

9. In section 10 of the principal Act, in sub-section (*3*), for the words "one year", the words "three years" shall be substituted.

Substitution of new section for section 12.

10. For section 12 of the principal Act, the following section shall be substituted, namely:—

Provisions of section 337 of Act 5 of 1898 to apply to offences under sections 3, 5 and 7.

"12. The provisions of section 337 of the Code of Criminal Procedure, 1898 shall apply in relation to an offence punishable under section 3 or under section 5 or under section 7 or under any of the said sections 3, 5 or 7 read with section 9, as they apply in relation to an offence punishable with imprisonment which may extend to seven years.".

Amendment of section 13.

11. In section 13 of the principal Act, in sub-section (*3*), the proviso shall be omitted.

Substitution of new section for section 15.

12. For section 15 of the principal Act, the following section shall be substituted, namely:—

Offences by companies.

'15. (*1*) If the person committing an offence under this Act is a company, every person who, at the time the offence was committed was in charge of, and was responsible to, the company for the conduct of business of the company, as well as the company, shall be deemed to be guilty of the offence and shall be liable to be proceeded against and punished accordingly:

Provided that nothing contained in this sub-section shall render any such person liable to such punishment provided in this Act if he proves that the offence was committed without his knowledge or that he exercised all due diligence to prevent the commission of such offence.

(2) Notwithstanding anything contained in sub-section (*1*), where an offence under this Act has been committed by a company and it is proved that the offence has been committed with the consent or connivance of, or is attributable to any negligence on the part of, any director, manager, secretary or other officer of the company, such director, manager, secretary or other officer shall also be deemed to be guilty of that offence and shall be liable to be proceeded against and punished accordingly.

Explanation.—For the purposes of this section,—

(*a*) "company" means a body corporate and includes a firm or other association of individuals; and

(*b*) "director", in relation to a firm, means a partner in the firm.'.

Amendment of section 6 of Act 51 of 1962.

13. In section 6 of the Defence of India Act, 1962, sub-clause (c) of clause (*1*) shall be omitted.

STATEMENT OF OBJECTS AND REASONS

The protection of official secrets is regulated by the Indian Official Secrets Act, 1923. Except for a few minor amendments made in 1951, the Act has remained unmodified since it was enacted more than forty years ago. In view of the changed circumstances after the attainment of independence and the wide variety of unscrupulous methods which anti-national elements have of late been adopting to secure their ends, it has become necessary to amend the Act suitably to remove certain short-comings and to make it more effective.

2. The following are the main features of the Bill:—

(*1*) It is proposed to widen the scope of sections 3 and 5 of the Act by bringing within their ambit cases of secret official codes, etc., the disclosure of which is likely to affect the sovereignty and integrity of India, security of the State and friendly relations with foreign States.

(*2*) In a prosecution for an offence of spying under section 3 of the Act, it is necessary to prove that the accused acted for a purpose prejudicial to the safety or interests of the State. In certain cases of spying, however, where the offence is punishable with imprisonment for a term which may extend to fourteen years, it has been provided that it would not be necessary to prove that the accused was guilty of any particular act tending to show such a purpose, if from the circumstances of the case or the conduct of the accused or his known character as proved, it appears that his purpose was a purpose prejudicial to the safety or interests of the State. It is considered that this special rule of evidence should be made applicable to all offences of spying punishable under the section and it is proposed to amend the section suitably for this purpose.

(*3*) In the context of problems of internal and external security which the country faces at present, it is necessary to make offences under the Act cognizable and non-bailable and to enhance the maximum penalties prescribed for certain offences. It is, therefore, proposed to enhance the punishments for the offences suitably while ensuring, at the same time, that all offences under the Act become cognizable and non-bailable.

(4) Considerable difficulty is experienced in proving offences under the Act, as very often direct evidence is not available unless one of the participants in the transaction comes forward to give such evidence. Accordingly, it is proposed to make the provisions of section 337 of the Code of Criminal Procedure, 1898 (tender of pardon to accomplice) applicable to offences under sections 3, 5 and 7 of the Act as also to attempts and abetments of such offences.

3. The Bill seeks to achieve the above objects.

NEW DELHI;
The 29th October, 1965.

G. L. NANDA.

S. L. SHAKDHER,
Secretary.

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